

The opinion in support of the decision being entered today was not written for publication is not binding precedent of the Board.

Paper No. 48

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SHALONG MAA

Appeal No. 2001-0908
Application 08/833,342

DECISION ON INQUIRY LETTER AND
REQUESTS FOR RECONSIDERATION

This is in response to the Inquiry Letter filed April 22, 2002 (Paper No. 43½), and the Request for Reconsideration filed August 26, 2002, (Paper No. 47). Applicant asks in the Inquiry Letter for the Group Director to clarify the examiner's actions and operation of the examining group. In the Request for Reconsideration, applicant further asks for the Board of Patent Appeal and Interferences (Board) to reconsider: 1) Advancing the appeal in accordance with 37 CFR § 1.102, MPEP 708.1(I), and MPEP

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707.02; 2) Releasing the application to permit inspection and copying; and 3) Returning applicant's Exhibit A which was attached to the Petition filed April 23, 2002, (Paper No. 34).

In order to permit a prompt decision on the appeal, any response to the Inquiry Letter which the Director of the Technical Center chooses to give, will be delayed until after the Board has rendered a decision on the merits of this appeal.

As for the requests made by the applicant, they are discussed in detail below.


The sections referred to in the MPEP by the applicant are directed to the procedure of examiner handling the first in line or "special" applications pending for five years. This is not the same as granting a petition to make an application special in accordance with MPEP 708.02 which would effect any further action during the pendency of the application. Furthermore, as previously explained in the Decision of July 15, 2002, the application has already been assigned to a Board Panel for a decision on the merits of the appeal. Thus, to file a request or petition to expedite the appeal would be moot since the application has already been assigned to a Board panel. Indeed, the additional Request for Reconsideration filed by the applicant has itself delayed consideration of the appeal by the Panel.

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Applicant again has asked to release the application for copying on the basis that it is not clear as to why the release of the application was being denied. The reason why is that the application was assigned to a Board Panel. Once it has been assigned, the application is retained at the Board until a Decision on the merits is rendered, since any release will only further delay the Decision. Moreover, the contention raised by the applicant with regard to the need of copying the application was to verify the content of the examiner's answer which was submitted as Exhibit A by the applicant. As noted in the Decision of July 15, 2002, the copy in Exhibit A is indeed the same as the one of record in the application.

Also, applicant has requested that the Exhibit A be returned to the applicant. Accordingly, Exhibit A is being sent back as an attachment to this letter.

BY ORDER OF THE BOARD OF PATENT
APPEALS AND INTERFERENCES



Bruce H. Stoner, Jr.
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